29 Original.

1906-07

1904-05

FILE No. 14 OF ~~1906-07~~

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

PROCEEDINGS OF THE GENERAL AND REVENUE DEPARTMENT

JUDICIAL AND LEGISLATIVE (LEGISLATION)

JANUARY 1908

'A" Collection Serial Nos. 1—15.

Surrender to the British Authorities of convicts undergoing imprisonment in Mysore Jail.

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5	From the First Assistant Resident, No. 4848, dated 29th August 1905. States that as the power conferred on Courts in British India by Part IX of the Prisoners' Act III of 1900 to issue orders to officers in charge of prisons is expressly limited to persons confined in prisons in British India. Any order issued by them as proposed in the Draft Notification to officers in charge of the prisons in Mysore for the production of persons confined therein before these Courts to answer charges made against them would be *ultra vires* for the reason that though it would justify the action of the Mysore prison officials so long as the prisoner is within Mysore territory their action will become illegal as soon as the prisoner passes over to British territory; and forwards a revised draft notification embodying all that is proposed by the Durbar and avoiding the legal difficulty underlying their suggestions with the request that it may be duly issued if approved and six copies forwarded to his office.		3
6	To the First Assistant Resident, No. Pol. 285, dated 15th October 1905. Accepts the terms of the revised draft and suggests certain modifications, *viz.*, that the obligation of making an application for the surrender of a prisoner be dispensed with and that the procedure be made identical in the case of both extradition and non-extradition offences.		4
7	From the First Assistant Resident, No. 2296, dated 11th April 1906. States that the Government of India see no objection to the addition to the proposed notification of a para as suggested by the Durbar as regards the suspension of the sentence passed on the convict under surrender by the Durbar Court; and also to the addition to proviso (2) of the words: "or under sentence for an act, which if committed in British India would not be an offence; that they are of opinion that the modification suggested by the Durbar in para 6 would not be a "necessary modification" within the meaning of Section 12 of the Extradition Act; that though the obligation on the part of the Durbar to make an application for the re-surrender of the prisoner extradited to British India might be dispensed with as far as persons *convicted* of *extradition* offences are concerned by amendment of the rules published under the above Act it seems to the Resident that it would be expedient to follow the procedure prescribed by Section 7 of the Act and to require the Durbar to move the Resident to issue his warrant simultaneously with their surrender of the convict to British India; that no substantial reasons have been advanced to secure uniformity of procedure in both extradition and non-extradition offences; and that the Resident will be glad to have the views of the Durbar on the suggestion of the Government of India for the issue by the Durbar of a general request under Section 9 of the Act for the extradition of all convicted persons who have not served out their sentences.		5
8	To the First Assistant Resident, No. Pol. 965, dated 31st May 1906. Accepts the course suggested by the Residency in regard to the surrender of persons convicted in Mysore of extradition offences; and states that as regards persons convicted of non-extradition offences, the Durbar's objection *viz.*, the uncertainty after delay and circumlocation, of getting back the convict concerned, has not been disposed of, and urges that unless there is the assurance of the convict's resurrender, the Durbar may not be asked to surrender him at all and that the case may be taken out of the arrangement proposed just as has been done in the case of criminals convicted in Mysore of acts which are not offences in British India.		6

Serial No. of File	Number and date of letter and contents	Reference	Page in A Progs.
9	From the First Assistant Resident, No. 5763, dated 10th October 1906. States that the suggestion, that a general requisition might be made for the extradition of all convicted persons who have not served their sentences, need not be adopted if it is not acceptable to the Durbar; that if the Durbar doubts the practicability of the procedure suggested in Section 3 of the Indian Extradition Act, the only alternative is to allow the Mysore Durbar the option of declining to surrender for trial in British India, a prisoner who is undergoing imprisonment in the Mysore State for a non-extradition offence and concludes that the Resident would be glad to be informed of the course which the Durbar would prefer to adopt in the matter.		7
	To the First Assistant Resident, No. Pol. 674, dated 6th February 1907. States that the Durbar continue to be of the opinion that the case of prisoners under sentence for non-extradition offences should be excluded from the scope of the proposed notification and prescribes the procedure that may be adopted in this kind of case; and adds that the proposed arrangement may be reconsidered when the Government of India finds it possible to amend Sections 9 & 3 of Act XV of 1903 so as to provide a more certain and less circuitous procedure for the re-surrender of persons sentenced for non-extradition offences and forwards for favor of approval of the Government of India a revised draft of a notification which the Durbar would issue in the matter.		8
11	From the First Assistant Resident, No. 2071, dated 5th March 1907. States that the language used in para 4 of Mr. Moore's letter of the 10th October in regard to the surrender of persons convicted of non-extradition offences was not so unqualified as it is represented to be; that although cases of failure of justice through delay might be rare, instances might occur where the gravity of the offence committed in British India and the possible risk of either the witnesses for getting the details of the occurrence or of interested persons tampering with them by the time the accused completed his sentence in the Mysore Jail, might render a speedy surrender necessary; and with a view to meet such a contingency and to avoid the correspondence and inconvenience that might ensue from the proposed consultation between the Durbar and the Resident, suggests the addition of a clause to the Draft Notification.		9
12	To the First Assistant Resident, No. Pol. 972, dated 6th May 1907. Accepts the addition of a new clause to the proposed notification with the remark that the word "offence" where it occurs should not mean an extradition offence and should not include an act which, if committed in British India, would not be an offence.		9
13	From the First Assistant Resident, Camp No. 21, dated 28th June 1907. Conveys the approval of the Government of India to the draft notification and states that it may be promulgated as law and thirty copies of the notification as published may be forwarded to the Residency.		10
14	To the Compiler, *Mysore Gazette*, No. J. 219, dated 20th July 1907. Forwards the Notification for publication.		11
14a	To the First Assistant Resident, No. Pol. 179, dated 21st August 1907. Forwards thirty copies of the Notification as desired.		12
15	Government Order No. J. 2013-23—Legis. 14-04-15, dated 6th January 1908, to the District Magistrates, the Inspector-General of Prisons and Police and the Registrar, Chief Court. Lays down instructions for the guidance of Magistrates and officers in charge of prisons in the State in regard to the execution of warrants issued by Magistrates in British India in accordance with the abovementioned notification.		

[1904-05

GENERAL AND REVENUE SECRETARIAT

LEGISLATION.)

NOTES.

File No. 14.

Surrender to the British Authorities of convicts undergoing imprisonment in Mysore Jails.

From the First Assistant to the Resident in Mysore, No. 2960, dated 20th June 1904.

Requests that the terms of the late Chief Commissioner's Notification No. 111, dated the 23rd July 1878, may be extended so as to authorise an officer in charge of a jail to act upon an order issued by a British Court under Part IX of the Prisoners Act III of 1900 for the production of a prisoner.

1. Submitted for orders with the necessary references.

2. The Chief Commissioner's Notification of July 1878 was issued under the authority of the Governor-General in Council, and has therefore the force of law. An extension of its terms can only be effected either by formal legislation, or by the issue of a notification by the Sovereign, because neither the Criminal Procedure Code, nor any other enactment at present in force provides the necessary statutory authority for the issue of an executive order by Government validating the surrender of a Mysore convict to a foreign Court.

3. I therefore submit for approval a draft of a notification in the name of His Highness the Maharaja. (Instead of an amending or extending notification, an independent notification is preferable). Also a draft of a reply to the Residency. With reference to para 2 of this draft, I may explain that, in a recent instance, the Resident based an argument for letting in the whole of the Administrator-General's Act as operative in Mysore upon the simple fact that we had referred to a particular provision of it for a limited purpose in the Succession Certificate Regulation.

4. Part IX of the Prisoners' Act, III of 1900, corresponds to the Prisoners' Testimony Act, XV of 1869, which it repealed and replaced. Our Regulation V of 1894 (referred to in the draft notification) was based on Act XV of 1869

5. In the present connection, attention is also solicited to the ruling laid down in Government Order No. 5332-34—J. 572, dated 15th October 1900, that the period of detention outside the State would count towards sentence.

6. As the matter dealt with herein involves an amendment of the law, it is submitted to the First Councillor in the first instance. It has also to be submitted to the Second Councillor as affecting prisons.

K. S. CHANDRASEKHARA AIYAR.

1-7-04.

7. P. S.—The last sentence of para 3 of the Residency letter "Any action in this respect being intimated to this office" seems to be ambiguous; it is not clear if reference is made to the action taken by the Durbar to give effect to the suggestion, or the action taken in each case by a Mysore Prison Officer.

K. S. CHANDRASEKHARA AIYAR.

1-7-04.

8. The draft notification and reply seem suitable and may be issued. I agree that a notification by His Highness is preferable to a Regulation. The Chief Commissioner's notification of 23rd July 1878, applies to Magistrates and Police Officers. Its extension to Jail Officers has been asked for. The notification proposed answers the purpose.

C. SRINIVASIENGAR.

2-7-04.

9. Submitted to the Dewan Saheb.

B. K. VENKATA VARADA IYENGAR.

2-7-04.

10. As directed in person at yesterday's council meeting, I submit a revised draft to the First Assistant Resident pointing out certain practical difficulties in connection with the proposed extension of the Chief Commissioner's notification.

K. S. CHANDRASEKHARA AIYAR.

13-7-04.

11. Draft submitted to the Dewan Saheb for approval.

B. K. VENKATA VARADA IYENGAR.

14-7-04.

Please submit through the First Councillor.

P. N. KRISHNAMURTI.

15-7-04.

13. The draft has been revised by Mr. Chandrasekhara Aiyar at my request. I agree to the revised draft which puts the case in as clear a manner as possible.

C. SRINIVASIENGAR.

22-7-04.

14. Draft submitted to the Dewan Saheb for approval.

B. K. VENKATA VARADA IYENGAR.

23-7-04.

Submitted to His Highness.

15. The request of the Residency in behalf of the Madras Government is that a convicted prisoner undergoing imprisonment in a Jail in Mysore may be handed over to British authorities on a process being received by any of our Jail authorities just as any other process of British Magistrates is executed by our Police. The dissimilarity was pointed out and the request has now been repeated that facilities have been afforded by the passing of the new Extradition Act of 1903. This however does not meet the case. When on our part we requested the British authorities for the surrender of prisoners for trial of other offences committed here we were refused on two occasions. This has been pointed out and reciprocity and equality of arrangement is suggested in the draft which may be approved.

P. N. KRISHNAMURTI.

24-7-04.

Order..

16. Draft approved.

K. R. W.,

His Highness the Maharaja of Mysore.

28-7-04.

17. Issue.

P. N. K.

29-7-04.

18. Issue.

B. K. V.

30-7-04.

2. To the First Assistant Resident in Mysore, No. Pol. 97, dated 2nd August 1904.

States that the Durbar are of opinion that when a Mysore prisoner is sent to British India upon a requisition made in this behalf, he should be returned as soon as possible after his trial there is over in view to his sentence in Mysore being worked out; that where such a person has been sentenced by a British Court he should be sent back to British India thereafter for undergoing the subsequent sentence and that where this cannot be done his removal to British India should not be required until he has first served out the sentence he may be undergoing in Mysore: and requests to be informed whether, in case the Durbar concede an extension of the existing arrangement, it is not reasonable that the Mysore Courts should on their part be enabled to procure the transmission of a prisoner under confinement in British Jail.

3. From the First Assistant Resident, No. 5202, dated 19th October 1904.

States that the Madras Government accept the condition of the return, under criminal process, if necessary, to Mysore after trial by the British Courts of a convict in Mysore Jails surrendered to the British authorities under the suggested extension of Notification No. 111 of 1878, except in cases in which sentence of death has been passed on the convict by the

British Courts; that this condition applies only to extradition offences; that as regards the transmission to the Mysore Courts of convicts in British Jails, ample provision seems to have been made in Sections 11 and 12 of the Indian Extradition Act XV of 1903; and enquires if the Durbar would concur in the addition proposed by him to the Notification of 1878 or they would suggest any alternative wording.

Submitted for orders.

T. K. S.

2-11-04.

N. N.
2-11-04

19. The arrangement proposed and the suggestion for securing facilities for reciprocal action, may be accepted.

20. Instead of an extension of the Chief Commissioner's Notification, an independent Notification is (as already pointed out in these notes) to be preferred.

21. A draft of a reply to the First Assistant Resident is submitted for approval.

K. S. CHANDRASEKHARA AIYAR.

7-11-04

22. Draft submitted to the Dewan Saheb through the First Councillor.

B. K. VENKATA VARADA IYENGAR

9-11-04.

23. The arrangement proposed is in every way satisfactory. I agree to the draft put up the Secretariat.

C. SRINIVASIENGAR.

10-11-04.

Submitted to His Highness

24. The draft reply to Residency Letter No. 5202 of the 19th October last may be approved. This file was already once before His Highness, and the present reciprocal arrangement regarding surrender of convicted prisoners accepted by the Madras Government is satisfactory for our purposes also. Hitherto there existed difficulties to obtain the surrender of prisoners confined in British Jails for trial of offences committed in Mysore. The Madras Government are now willing to allow us to proceed, as provided in Sections 11 and 12 of the Extradition Act. If the Government of India approves of the arrangement, a notification on the lines suggested in the draft letter to the Residency may be issued.

P. N. KRISHNAMURTI.

16-11-0

Order.

25. Approved.

K. R. W.,
His Highness the Maharaja of Mysore
28-11-04

26. Issue.

P. N. K.
28-11-04.

4. *To the First Assistant to the Honorable the Resident, No. Pol. 467, dated 2nd December 1904.*

States that the Durbar accept with pleasure the arrangements proposed in Serial No. 3 and that, on hearing the decision of the Government of India, they will issue instructions to their officers in the matter; but that, instead of modifying the Notification of July 1878 as suggested, they would prefer to issue an independent notification in the name of His Highness the Maharaja.

5. *From the First Assistant to the Honorable the Resident in Mysore, No. 4848, dated the 29th August 1905.*

States that, as the power conferred on Courts in British India by Part IX of the Prisoners' Act, III of 1900, to issue orders to officers in charge of prisons is expressly limited to persons confined in prisons in British India, any order issued by them as proposed in the draft notification to officers in charge of the prisons in Mysore for the production of persons confined therein before these Courts to answer charges made against them would be *ultra vires*, for the reason that though it would justify the action of the Mysore prison officials, so long as the prisoner is within Mysore territory, their action will become illegal as soon as the prisoner

passes over to British territory; and forwards a revised draft notification embodying all that is proposed by the Durbar and avoiding the legal difficulty underlying their suggestions with the request that it may be duly issued if approved and six copies forwarded to his office.

Submitted for orders.

T. K. S.

31-8-05.

27. The arrangement now proposed seems somewhat one-sided, especially as regards the reconveyance of surrendered convicts to Mysore; and to require therefore some scrutiny.

28. In the last sentence of para 1 of our letter No. Pol. 467, dated the 2nd December 1904, we expressly and pointedly made the "presumption" that the Resident's "warrant for securing the return of the convict to Mysore will be issued in all cases as a matter of course, and that any special initiative action on the part of the Durbar will not be required." This remark is quietly ignored and put aside. And, instead, a distinction between extradition and non-extradition offence is raised, which throws all the trouble and the initiative on the Durbar. (*Vide* paras 6 & 7 of the First Assistant Resident's letter under receipt.)

29. In the case of an extradition offence, the issue by the Resident of a warrant for the convict's reconveyance is made dependant on our making an application for his extradition; though this can hardly be necessary if the general understanding for the return of the convict *in any case* is adhered to, and though the particulars that may be required by the Residency for the preparation of the warrant could almost always be gathered from the British Court's requisition which goes through the Resident.

30. The position is worse as regards non-extradition offences. In this case, the more complicated provisions of Sections 3 and 9 of Act XV of 1903 have, it is suggested by the Residency, to be adopted. Here again, the Durbar must make a requisition through the Political Agent to the Local Government; the latter, *if it thinks fit*, issues an order to a Magistrate to inquire into the case; the Magistrate does so, taking evidence in support of the requisition and on behalf of the criminal (but not evidence of the character of the offence) and, if he thinks there is a *prima facie* case in support of the requisition, he commits the criminal to prison to await the orders of the Local Government, to whom he submits a report: if not, he lets the criminal on bail. There is provision, further, for a reference to the High Court by the British Government in certain cases. And, after all this trouble and delay, it is optional with that Government to surrender the criminal to the Durbar. And since "offence" has been defined as an act which would, if committed in British India, constitute an offence, persons convicted under, say, such laws as our Mines Regulation, Game Regulation, Infant Marriages Regulation, etc., cannot be procured back at all. In my humble opinion, the procedure suggested above is most inconvenient; and ought not to be necessary, where (as in the case under consideration) the question of the man's guilt has already been tried and decided by a Mysore Court affirmatively. I rather think that action could, and might well, be taken under Section 12 of the Extradition Act, which refers to the case of a person who, having been *convicted* of an offence in a Native State, escapes into or *is* in British India before his sentence has expired. This will simplify matters a good deal, a warrant from the Resident being quite sufficient to procure the convict's re-surrender.

31. Again, it is somewhat strange that no reference is made in the Residency letter to the general offer made by us in para 4 of our letter of 2nd December 1904 in regard to the reciprocal aspect of the question. If we address the Residency again, this point should be set at rest, and a plain assurance extracted that reciprocity will be given to us as a matter of course.

32. As regards the scheme of the draft notification described in para 5 of the Residency letter, it is not quite clear whether the delivery of the prisoner is to be made *at the prison gate*, or at the frontier of British India. Probably the latter, as in the case of arrests effected under the Chief Commissioner's Notification No. 111 of the 23rd July 1878. I am not, however, sure that the prison officials have facilities for deputing the necessary guard for the safe conduct of the convict. The point is one on which a reference may, perhaps, be made to the Inspectors-General of Police and Prisons.

33. In other respects the notification seems open to no objection. But I would suggest a very necessary addition to it on the lines of sub-section (2) of section 11 of Act XV of 1903, in order to provide for the sentence on the convict being under suspension during the period of his surrender. If this is not done, the period of sentence would very often run completely out by the time his trial in British India closes, and he would thus escape his just punishment for the crime committed in Mysore. The terms of the addition may be as follows:—

(2) "His Highness is further pleased to direct that, on the delivery as aforesaid of a person confined in prison and undergoing sentence under a conviction in Mysore, his sentence shall be deemed to be suspended until the date of his re-surrender from British India to Mysore, when it shall revive and shall have effect for the portion thereof which was unexpired at the time of his delivery.

34. Such an addition cannot in any way be objected to by the British Government, and can be lawfully enacted by a notification emanating from the Sovereign, as it is and has the force of an act of the legislature.

35. The question raised above are difficult and important; and till they are decided, it seems unnecessary to attempt the drafting of a reply to the Residency

K. S. CHANDRASEKHARA AIYAR,

5-9-05

36. Submitted to the Dewan Saheb through the 1st Councillor. In case the convict surrendered by us is again convicted in the British Court, it is all right and there would be no need for us to ask for his return, as he would be incarcerated there and we will be relieved of his diet charges, etc. But if he be acquitted there it is reasonable that they should *suo motu* send back our convict to undergo the remaining period of his sentence.

B. K. VENKATA VARADA IYENGAR,

5-9-05.

37. I beg to point out that the essential part of the arrangement is that the convict is to be returned to us, immediately on the termination of his trial in British India, for undergoing the balance of the Mysore sentence; so there is no question of our being saved any expenditure. The question is rather one of the procedure by which the convict's reconveyance is to be procured.

K. S. C.

5-9-05.

Yes; thanks; only on monetary consideration I said that we need not be particular about the convict being fed by us.

B. K. V.

5-9-05.

38. We ought to be able to get back our men without our having to make any application in that behalf. Moreover, there ought, in this respect, to be no difference between men convicted of extradition offences and those convicted of non-extradition offences. The question of reciprocity is also important and must, I think, be pressed. In both cases, delivery should be made at the prison premises and not at the frontier. From date of surrender, to date of re-surrender, the sentence should be regarded as under suspension. If these points are settled, the wording of the notification would become very easy. I agree with the Deputy Secretary that a further reference should be made to the Resident. To the suggestion all reference to the Prisoners' Act and Prisoners' Testimony Regulation may be omitted, there seems no objection; all that is intended is mutual accommodation, and neither Government should be confronted with difficulties of any kind. But the Resident's present communication seem to show that in complying with requisitions of the kind under notice, the Mysore Government would be labouring under considerable disadvantages.

C. SRINIVASIENGAR,

6-9-05.

39. I generally agree. Submit a draft on the above lines.

P. N. KRISHNA MURTI,

8-9-05

40. To Branch III for a draft.

B. K. VENKATA VARADA IYENGAR,

12-9-05.

41. A draft of a letter to the First Assistant Resident is submitted.

K. S. CHANDRASEKHARA AIYAR,

15-9-05.

42. Fair draft submitted to the Dewan Saheb through the 1st Councillor.

B. K. VENKATA VARADA IYENGAR

16-9-05.

Submitted to His Highness.

43. The arrangement proposed by the Resident is extremely one—sided and is bound to prove very inconvenient to us unless the modifications suggested in the last para of the draft letter to the Residency are accepted. The draft letter explains the case fully and may be approved.

P. N. K.

Order.

44. Approved.

K. R. W.
His Highness the Maharaja of Mysore.
10-10-05.

45. Issue.

P. N. K.
11-10-05.

46. The draft deals c..... ..... the several questions involved and is in my opinion suitable.

C. SRINIVASIENGAR,
18-10-05.

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6. To the First Assistant to the Hon'ble the Resident, No. Pol. 285, dated 15th October 1905.

Accepts the terms of the revised draft and suggests certain modifications, *viz.*, that the obligation of making an application for the surrender of a prisoner be dispensed with and that the procedure be made indentical in the case of both extradition and non-extradition offences.

7. From the First Assistant to the Hon'ble the Resident, No. 2296, dated the 11th April 1906.

States that the Government of India see no objection to the addition to the proposed notification of a para as suggested by the Durbar as regards the suspension of the sentence passed on the convict under surrender by the Durbar Court; and also to the addition to proviso (2) of the words " or under sentence for an act which, if committed in British India would not be an offence; " that they are of opinion that the modification suggested by the Durbar in para 6 would not be a "necessary modification" within the meaning of Section 12 of the Extradition Act; that though the obligation on the part of the Durbar to make an application for the re-surrender of the prisoner extradited to British India might be dispensed with so far as persons *convicted* of *extradition* offences are concerned by amendment of the rules published under the above Act, it seems to the Resident that it would be expedient to follow the procedure prescribed by Section 7 of the Act and to require the Durbar to move the Resident to issue his warrant simultaneously with their surrender of the convict to British India; that no substantial reasons have been advanced to secure uniformity of procedure in both the extradition and non-extradition offences; and that the Resident will be glad to have the views of the Durbar on the suggestion of the Government of India for the issue by the Durbar of a general request under Section 9 of the Act for the extradition of all convicted persons who have not served out their sentences.

Submitted for orders.

T. K. S.

28-4-06.

47. This is a difficult question, on which much has already been said, but which seems as far off from settlement as ever, owing to the reluctance of the Government of India to give us the necessary facilities for procuring the re-surrender of our own convicts after their trial in British India.

48. In the case of persons convicted of extradition offences, I think we may, as the easiest solution, accept the suggestion of the Resident to make an application for the convicts re-surrender in each case in which he is given up to the British authorities.

49. But, as regards those convicted of non-extradition offences, the main objection of the Durbar to adopt the procedure prescribed in Section 9 of the Extradition Act, *viz.*, the uncertainty after all the delay and circumlocution of our being able to get back the convict at all, has not been met by the Government of India. I have explained this point fully in the draft reply I have put up; and have urged therein that unless there is the assurance of the convict's re-surrender, the Durbar ought not to be asked to surrender him at all, and that the case may be taken out of the proposed arrangement, just as has been done in the case of criminals convicted in Mysore of acts which are not offences in British India.

50. For the rest, the draft will speak for itself.

K. S. CHANDRASEKHARA AIYAR,
5-5-06.

51. In view of the very distinct statement contained in para 5 of the First Assistant to the Hon'ble the Resident's letter under disposal, it seems to me that it would be useless to move the Resident again to the effect suggested in the concluding para of the proposed draft. The legislature of British India have to frame their enactments so as to apply to all foreign states concerned.

I see no objection to the Durbar adopting the course suggested in the concluding portion of para 4 of the First Assistant to the Hon'ble the Resident's letter. In that event, in the case of a Mysore convict it would suffice (I suppose) to send (even if this be necessary, which I doubt) with the application, a copy of the judgment by which he was convicted, just a *precis* of available evidence, is now sent with applications for the surrender of Mysore offenders accused but not convicted. And although in the latter case the British authorities may see fit to make some inquiry themselves including hearing what the accused may have to say, the probability is that in the former case the British authorities would not care to go behind the judgment but would accept and act upon it as if it were conclusive. And provided the men are sent back to Mysore, it matters to us little as to what preliminary procedure the British authorities adopt in British India

T. ANANDA RAO.

1st Councillor

12-5-06.

52. I agree in the main with the views of the Deputy Secretary embodied in the draft reply. We are required to give up our prisoners in order that they may be tried in British India and it is but reasonable to ask that the prisoners should be re-surrendered to us, as soon as the trial is over in British India. Even in the case of extradition offences, we should be able to get back the prisoners as a matter of course and without having to make a formal requisition for an extradition warrant. But if this is considered indispensable, a brief application supported by a copy of the judgment of conviction might be made. In the case of non-extradition offences, there seem to be great difficulties in getting back the prisoners. I would omit this class of offences from the present arrangement in the same way as acts which would be no offences in British India.

The simplest solution in view of the legal and technical objections which have been raised appears to be to keep our prisoners until their sentences are worked out and then to hand them over to the British authorities. There is also the risk of escape involved in transporting backwards and forwards persons convicted of heinous offences.

I fail to see any *reciprocity* in the arrangements now contemplated which place the Mysore Durbar at some disadvantage and the British Indian Government do not seem prepared to meet the Mysore Durbar half way.

K. P. PUTTANNA CHETTY,

2nd Councillor.

14-5-06.

Submitted to His Highness.

53. The question of the arrangements regarding the surrender of Mysore convicts to British India has been before His Highness on more than one occasion.

54. The letter last received from the Residency shows that the difficulties felt by the Durbar, in regard to their being able to procure back prisoners convicted in Mysore of non-extradition offences, have not been removed, and that it is necessary to make a further representation to the Government of India in the matter. Local Governments in British India will, no doubt, comply with our requisitions in the generality of cases; but there is no assurance that this lwill invariably be done; and, as long as this is so, there is the chance of our convicts occasionaly escaping punishment.

55. The draft reply put up explains the situation fully. and may kindly be approved.

V. P. MADHAVA RAO,

22-5-06.

Order.

56. Approved.

K. I W.

His Highness the Maharaja of Mysore.

26-5-06.

57. Issue.

V. P. M.

29-5-06.

8. *To the First Assistant to the Hon'ble the Resident in Mysore, No. Pol. 965, dated 31st May 1906.*

Accepts the course suggested by the Residency in regard to the surrender of persons convicted in Mysore of extradition offences; and states that, as regards persons convicted of non-extradition offences, the Durbar's objection, *viz.*, the uncertainty, after delay and circumlocution of getting back the convict concerned, has not been disposed of, and urges that unless there is the assurance of the convict's re-surrender, the Durbar may not be asked to surrender him at all and that the case may be taken out of the arrangement proposed, just as has been done in the case of criminals convicted in Mysore of acts which are not offences in British India.

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9. *From the same Officer, No. 5763, dated 10th October 1906.*

States that the suggestion that a general requisition might be made for the extradition of all convicted persons who have not served their sentences, need not be adopted, if it is not acceptable to the Durbar; that, if the Durbar doubts the practicability of the procedure suggested in Section (3) of the Indian extradition Act, the only alternative is to allow the Mysore Durbar the option of declining to surrender for trial in British India, a prisoner who is undergoing imprisonment in the Mysore State for a non-extradition offence; and concludes that the Resident would be glad to be informed of the course which the Durbar would prefer to adopt in the matter.

Submitted for orders.

C. R. D.
19-10-06.
S. N.
20-10-08.

58. We may accept the suggestion that the notification should not apply to the case of convicts undergoing imprisonment for a non-extraditable offence.

(2) As we have agreed to send, in each case, a requisition for the return of the convict after trial, we may ask for a reconsideration of the Hon'ble the Resident's decision that, in the converse case of a British convict who is surrendered to Mysore and who has to be re-surrendered to the British authorities, our request that a warrant for his re-surrender should accompany the prisoner cannot be complied with, but that the State should of itself arrange to re-surrender such persons, which entails the issue of a notification of His Highness the Maharaja.

(3). It is a point to be noted with reference to para 4 of the First Assistant Resident's letter that there are certain non-extraditable offences for which the punishment is very severe, *e. g.* the offence of attempting to wreck a train, Section 126 of the Railways Act.

K. MATTHAN.
14-11-06.

Draft to the First Assistant Resident submitted.

K. MATTHAN.
30-11-06.

59. I have put up a revised draft adhering to the view already expressed by the Durbar in favor of the exclusion of the case of convicts under sentence in Mysore for non-extradition offences from the scope of the arrangement. For the rest the draft speaks for itself.

K. S. CHANDRASEKHARA AIYAR.
8-12-06.

60. Draft may be approved. The notification says that the requisition should be addressed to the officer in charge of the prison in which the person is confined; whereas in para 2 of the draft letter it is stated that the procedure would be for the warrant to be issued to the Magistrate in Mysore within whose jurisdiction the prisoner is undergoing sentence. Some alteration appears to be necessary either in the draft letter or the notification.

K. P. PUTTANNA CHETTY,
2nd Councillor.
8-12-06.

61. No alteration seems necessary; the reference in the notification is to a warrant to be executed by the prison officer while the convict is undergoing sentence; while that in para 2 of the draft is to a warrant to be executed by the Magistrate after the release of the convict from prison. The former again refers to extradition offences and the latter to non-extradition offences. The distinction is necessary. In the one case, it is the object of the proposed notification to empower the prison officer to act; in the other, only the Magistrate can execute the warrant under the Chief Commissioner's Notification.

Re-submitted to 2nd Councillor.

K. S. CHANDRASEKHARA AIYAR.
8-12-06.

62. Thanks. I have proposed a slight addition (in pencil) to make this clear.

K. P. P
10-12-06.

63. Approved.

T. ANANDA RAO
27-12-06.

Submitted to His Highness.

64. I submit for approval draft of a letter to Residency, in reply to their letter of the 10th October 1906, regarding the extradition from Mysore to British India of persons convicted and confined in Mysore prisons.

65. The draft explains the situation fully.

V. P. M
29-1-07.

Order.

66. Approved.

K. R. W.
31-1-07.

67. Dewan's orde

Please issue.

B. O.
C. S. BALASUNDARAM IYER.
2-2-07.

10. To the First Assistant Resident No. Pol 674, dated 6th February 1907

States that the Durbar continue to be of the opinion that the case of prisoners under sentence for non-extradition offences should be excluded from the scope of the proposed notification prescribes the procedure that may be adopted in this kind of case; and adds that the proposed arrangement may be re-considered when the Government of India finds it possible to amend Sections 9 and 3 of Act XV of 1903, so as to provide a more certain and less circuitous procedure for the re-surrender of persons sentenced for non-extradition offences and forwards for favor of approval of the Government of India a revised draft of a notification which the Durbar would issue in the matter.

11. From the same officer No. 2071, dated 5th March 1907.

States that the language used in para 4 of Mr. Moore's letter of the 10th October in regard to the surrender of persons convicted of non-extradition offences was not so unqualified as it is represented to be; that, although cases of failure of justice through delay might be rare, instances might occur where the gravity of the offence committed in British India and the possible risk of either the witnesses for getting the details of the occurrence, or of interested persons tampering with them by the time the accused completed his sentence in the Mysore Jail, might render a speedy surrender necessary; and with a view to meet such contingencies and to avoid the correspondence and inconvenience that might ensue from the proposed consultation between the Durbar and the Resident, suggests the addition of a clause to the draft notification.

Submitted for orders through Probationary Assistant Commissioner

T. K. S.
7-3-07.

S. N.
7-3-07

68. The suggestion of the Resident, while saving us the inconvenience of consultation in each and every case, involves consultation only in those cases where the British Magistrate thinks that, in the interests of justice, the Mysore convict should be immediately tried. This may be accepted as the best solution of a long standing question. In the consultation that may take place in a particular case, the question of the re-surrender of the convict may be settled. The suggestion in para 3 of our letter of the 6th February 1907 has not elicited any response from the First Assistant Resident. As regards the suggested clause, the last portion as drafted by the Residency may, it is respectfully submitted, be amended by substituting " for a non-extradition offence," for the words " for any offence."

S. P. RAJAGOPALACHARI.

7-3-07.

69. As regards the surrender of prisoners undergoing imprisonment in Mysore for non-extradition offences, the suggestion now made by the Residency may, I think, be agreed to The Durbar will, in each case, be consulted before immediate surrender is demanded and wil be in a position to make such representation as may be necessary before final action is decided upon by the Hon'ble the Resident.

T. THUMBOO CHETTY.

9-3-07.

70. A draft to First Assistant Resident submitted as personally directed.

S. P. R.

22-3-07.

71. Draft revised and submitted to Dewan through the First and second Councillors.

K. S. C.

26-3-07.

72. The draft may be approved.

T. ANANDA RAO.

11-4-07.

73. May be approved.

K. P. P.

17-4-07.

Submitted to His Highness.

74. I submit, for approval, the draft of a letter to the Residency, in reply to their letter No. 2071, dated 5th March 1907, on the subject of the extradition of Mysore convicts to British India and their surrender to their state after trial.

V. P. MADHAVA RAO.

23-4-07.

Order.

75. Approved.

K. R. W.

1-5-07.

76. Dewan's order.

Please issue.

B. O.

C. S. BALASUNDARAM IYER.

3-5-07.

12. To the First Assistant Resident in Mysore No. Pol. 972, dated 6th May 1907.

Accepts the addition of a new clause to the proposed notification with the remark that the word " offence " where it occurs should not mean an extradition offence and should not include an act which, if committed in British India, would not be offence.

13. From the same officer Camp No. 21, dated 28th June 1907.

Conveys the approval of the Government of India to the draft notification and states that it may be promulgated as law and 30 copies of the notification as published may be forwarded to the Residency.

Submitted for orders.

T. K. S.

29-6-07.

S. N.

29-6-07.

77. The notification may now be published.

S. P. RAJAGOPALACHARI.
29-6-07

78. The notification may now issue.

K. P. PUTTANNA CHETTY.
2-7-07.

79. Yes.

T. ANANDA RAO
10-7-07

Submitted to His Highness.

80. I submit, for information, Residency letter dated 28th June 1907, conveying the approval of the Government of India to the proposed arrangements for the extradition from Mysore to British India of persons convicted and confined in Mysore prisons

V. P. MADHAVA RAO.
12-7-07.

81. *Order.*

K. R. W.
15-7-07.

82. Issue.

C. S. B.
17-7-07.

83. The notification may be issued.

It seems necessary, however, to issue separate instructions for the guidance of Magistrates and officers in charge of prisons explaining to them the procedure to be adopted in the different kinds of cases, *viz.*, (1) extradition offence (2) non-extradition offence which is an offence in British India also, and (3) non-extradition offence which is not an offence in British India. Put up a draft in this matter. Also please see whether such instructions may proceed from Government or the Chief Court may be requested to issue a circular.

K. MYLAR RAO.
19-7-07.

84. Issue notification and draft an order as suggested.

C. S. BALASUNDARAM IYER.
24-7-07.

14. To the Compiler, Mysore Gazette, No. J. 219, Leg. 14-04, dated 20th July 1907.

85. Submitted with a draft order and draft of a letter to the First Assistant Resident forwarding 30 copies of the notification as published. (*Vide* para 4 of the Residency letter.) The subject being one of extradition, the office submits that the order seems one fit to be issued by Government.

T. K. S.
12-8-07.

S. N.
20-8-07

86. Issue the letter to the Residency and re-submit.

K. MYLAR RAO.
21-8-07.

87. Re-submitted with a revised draft order as personally instructed.

S. N.
13-9-07.

88. Draft order submitted to the Secretary.

K. MYLAR RAO.
13-9-07.

89. Dewan through 1st Councillor.

C. S. BALASUNDARAM IYER.
16-9-07.

90. The draft may be approved.

T. ANANDA RAO
24-9-07.

91. Draft approved by Dewan.

Print and submit in proof to Dewan.

C. S. BALASUNDARAM IYER.

6-12-07.

14 To the First Assistant Resident No. Pol. 179, dated 21st August 1907.

Forwards 30 copies of the notification as desired.

15. Government Order No. J. 2013-23, Leg. 14-04-15, dated 6th January 1908, to the District Magistrates, the Inspectors-General of Prisons and Police and Registrar, Chief Court.

Lays down instructions for the guidance of Magistrates and officers in charge of Prisons in the state in regard to the execution of warrants issued by Magistrates in British India in accordance with the above mentioned notification.

Surrender to the British authorities of convicts undergoing imprisonment in Mysore Jails.

FILE No. 14 OF 1906-07.

From R. C. H. Moss King, Esq., I.C.S., First Assistant to the Hon'ble the Resident in Mysore to the Dewan of Mysore, No. 2960, dated Bangalore, 20th June 1904.

I am directed to invite a reference to the correspondence ending with Mr. Nanjundayya's letter No. 15927—J. 1587, dated the 30th May 1901, regarding the surrender to the British authorities of convicts undergoing imprisonment in Mysore Jails. Serial No. 1

2. It will be observed that Section 12 of the Indian Extradition Act XV of 1903, which came into force on the 1st day of June 1904, (*vide* Government of India Notification No. 1861, I. A., dated 14th May 1904, in the Foreign Department, published in Part I, page 364, of the Gazette of India, of the said date) authorizes the return to a Native State of a convict who has been temporarily handed over by the Durbar to appear before a court in British India.

3. I am therefore to request that the Government of His Highness the Maharaja may now, if they see no objection, extend the terms of the late Chief Commissioner's Notification No. 111, dated 23rd July 1878, so as to authorise an Officer in charge of a Jail in Mysore to act upon an order issued by a British Court under Part IX of the Prisoners' Act III of 1900, for the production of a prisoner, any action in this respect being intimated to this office.

To the First Assistant to the Hon'ble the Resident in Mysore, Pol. No. 97, dated 2nd August 1904.

I am directed to acknowledge the receipt of your letter No. 2960, dated the 20th June 1904, suggesting an extension of the terms of the late Chief Commissioner's Notification No. 111, dated the 23rd July 1878, so as to authorize an Officer in charge of a Jail in Mysore to act upon an order issued by a British court for the production of a prisoner. Serial No. 2

2. In reply, I am directed to place the following observations before the Hon'ble the Resident for his kind consideration

3. There is, to begin with, a material difference between the cases contemplated by the Chief Commissioner's Notification and those to which it is now proposed to extend it. When a process issued by a British Magistrate is duly executed under the Notification of 1878, the future disposal of the person surrendered is a matter in which the Mysore State has little or no immediate concern. But the suggestion now made involves the surrender of a convict who is already undergoing sentence in a Mysore prison; and the question arises whether, on an individual so surrendered being tried and convicted by a British Court, the second sentence should operate immediately on conviction as aforesaid, or after the restoration of the prisoner to Mysore and after the expiry in due course of his term of sentence in Mysore. In the former case, inasmuch as the period of detention outside the State would, nevertheless, count towards the Mysore sentence, it might often happen that the period of such sentence would have expired wholly or in great part by the time of his return. The point is one on which His Highness' Government are of opinion that there should be a clear understanding. Their own view is that when a Mysore prisoner is sent to British India upon a requisition made in this behalf, he should be returned as soon as possible after his examination or trial is over, in view to his sentence in Mysore being worked out, and, where such a person has been sentenced by a British Court, that he should be sent back to British India thereafter for undergoing the subsequent sentence; and that, where this cannot be done, his removal to British India should not be required, until he has first served out the sentence he may be undergoing in Mysore.

4. In the next place, there is also the question whether, if the Mysore Government is willing to concede an extension of the existing arrangement as desired by the Madras Government, it is not reasonable that the Courts of the Mysore State should, on their part, be enabled to procure in like manner the transmission of a prisoner under confinement in a British Jail. Facilities in this respect have hitherto been wanting, as will be seen by a reference to the correspondence alluded to in the margin. The Durbar will be glad if this opportunity can be taken for arriving at an arrangement satisfactory to both Governments; and they request to be favored with the views of the Hon'ble the Resident on the point.

(1) This office letter No. J. 815, dated the 5th December 1902, and your office reply No. 7207, dated the 16th idem.
(2) Correspondence ending with your endorsement No. 5116, dated the 23rd December 1903.

Surrender to the British authorities of convicts undergoing imprisonment in Mysore Jails.

From R. C. H. Moss King, Esq., I.C.S., First Assistant to the Hon'ble the Resident in Mysore, to the Dewan of Mysore, No. 5202, dated 19th October 1904.

I am directed to reply to the Secretary's letter No. Pol. 97, dated the 2nd August 1904, and to reply as follows :— Serial No. 3.

2. The Resident has been in communication on this subject with the Government of Madras and it has been ascertained that the condition proposed by the Durbar in paragraph 3 of the letter under reply is accepted by His Excellency the Governor in Council, *viz.*, that a convict, in a Mysore Jail, surrendered to the British authorities, under the suggested extension of the Notification of July 23rd 1878, should be returned to Mysore after trial and thereafter be re-surrendered, if necessary, under a criminal process. This condition should not, of course, be held to apply to the case in which a sentence of death is passed on the convict by the British Court. The return of the convict to Mysore will be effected by the issue of a warrant by the Resident under Section 7 of the Indian Extradition Act, 1903. Hence the operation of the arrangement will be restricted to extradition offences.

3. The view of the Durbar as expressed at the close of paragraph 3 of the letter under acknowledgment being thus met, it is understood that His Highness' Government will be prepared to agree to the proposed extension of the Chief Commissioner of Mysore's Notification No. 111 Criminal, dated July 23rd 1878. The extension will require the previous sanction of the Governor-General in Council. I am to enquire whether the extension or addition stated below is concurred in by the Durbar, or whether the Durbar would suggest any alternative wording. The terms of the extension will be finally settled by the Government of India :—

"The criminal processes referred to in Notification, Criminal, by the Chief Commissioner of Mysore, No. 111, dated July 23rd, 1878, shall include orders directed by the Criminal Courts in British India to Officers in charge of Prisons in the Mysore State under the provisions of Part IX of the Prisoners' Act III of 1900 in respect of charges of an offence made against persons confined in such prisons. Such orders shall be forwarded through the Resident in Mysore. Provided that no such order shall be directed to officers in charge of such prisons in respect of charges of any offence other than an extradition offence as defined in Act XV of 1903. Provided also that no such order shall be directed when the person confined in such prison is under sentence of death."

4. With regard to paragraph 4 of the letter under reply, I am to say that the facilities therein referred to, as desired by the Durbar appear to have already been afforded by the Extradition Act XV of 1903 (Sections 11 and 12). These facilities, the Officiating Resident thinks, would be increased, if the Durbar were to take action with reference to the condition specified at the close of clause (1) of Section 11, by intimating their general acceptance of the condition that a person surrendered under Section 11 should be re-surrendered on the termination of his trial for the offence for which his surrender has been asked.

To the First Assistant to the Hon'ble the Resident in Mysore, Pol. No. 467, dated 2nd December 1904.

I am directed to acknowledge the receipt of your letter No. 5202, dated the 19th October 1904, from para 2 of which the Durbar understand :— Serial No. 4.

1stly.—That the scope of the proposed arrangement is restricted to Mysore convicts (other than those sentenced to death) who may be accused in British India of extradition offences;

2ndly.—That, when such a convict is surrendered to a criminal court in British India, he should be returned to Mysore as soon as possible, after the termination of his trial for the offence for which his surrender is asked, unless he is sentenced to death by the British court; and

3rdly.—That his surrender to British India, if necessary, for undergoing his British Indian sentence after the expiry of his Mysore sentence, is to be by means of a criminal process.

It is presumed that the warrant of the Hon'ble the Resident, for securing the return of the convict to Mysore, will be issued in all cases as a matter of course, and that any special initiative action on the part of the Durbar will not be required.

2. I am directed to state that the Government of His Highness the Maharaja have much pleasure in accepting the arrangement referred to above, and on hearing of the decision of the Government of India in the matter, they will be prepared to issue the necessary instructions to their officers in this behalf.

Surrender to the British authorities of convicts undergoing imprisonment in Mysore Jails.

3. With regard to the wording suggested in para 3 of your letter I am to say that, instead of modifying or extending the Chief Commissioner's Notification of the 23rd July 1878, No. 111, which deals with one specified set of circumstances and refers to one class of officers and which, in relation thereto, is complete as it stands, the Durbar will prefer that the arrangement in question, which refers to a different set of circumstances and to a different class of officers, and requires moreover to be expressed with limitations and provisos, should be given effect to by an independent notification to be issued in the name of His Highness the Maharaja.

Such a notification may run as follows :—

"His Highness the Maharaja of Mysore is pleased to direct that an order issued by a criminal court of competent jurisdiction in British India under Part IX of the Prisoners' Act, III of 1900, of the Governor-General of India in Council, and addressed to the Officer in charge of a prison in Mysore, should be acted upon and executed by such officer in the same manner and under the same conditions, as if such order had been issued by a Criminal Court in Mysore acting under the Prisoners' Testimony Regulation, V of 1894.

"Provided, however, as follows :—

"(1) that all such orders are forwarded through the Hon'ble the Resident in Mysore;

"(2) that no such order relates to any offence other than an extradition offence as defined in Act, XV of 1903 of the Governor-General in Council; and

(3) that the person confined in such prison is not under sentence of death.

4 As regards the reciprocal aspect of the question touched upon in para 4 of your letter, I am to say that His Highness' Government are thankful for the suggestion made therein, and beg hereby to express their general acceptance of the condition that a person surrendered to the Mysore State under Section 11 of the Extradition Act, 1903, should be resurrendered on the termination of his trial for the offence for which his surrender has been asked, but not so as to prevent or postpone the execution of a sentence of death lawfully passed. And they trust that in future there will be no such difficulties in procuring the transmission of such prisoners to Mysore as there have been in the past.

From R. C. Moss King, Esq., I.C.S., First Assistant to the Hon'ble the Resident in Mysore, to the Dewan of Mysore, No. 4848, dated Bangalore, 29th August 1905.

Serial No. 5.

I am directed to acknowledge the receipt of Mr. Venkatavarada Iyengar's letter Pol. No. 467, dated 1st December 1904, indicating the terms of the draft notification which the Durbar are prepared to issue in order to provide for the extradition from Mysore to British India of persons convicted and confined in prisons in the Mysore State.

2. The proposal, which originated with the Government of Madras, was that the Mysore Durbar should authorise officers in charge of their prisons to act upon orders issued by British courts under Part IX of the Prisoners' Act, 1900 (III of 1900) for the production before these courts, in order to answer charges made against them, of persons confined in such prisons. From the point of view of Mysore law there is no objection to this proposal. If His Highness the Maharaja's Government issues a notification directing the officers in charge of its prisons to recognise and give effect to such orders, there is sufficient legal justification for any action which these officers may take in pursuance of them in Mysore.

3. From the point of view of British law, however, the position is not so simple. The powers conferred by Part IX of the Prisoners' Act, 1900 (III of 1900) on courts in British India to issue orders to officers in charge of prisons is expressly limited to the case of persons confined in prisons in British India, and therefore any such order as is contemplated in the draft notification referred to above would be *ultra vires*; and the result of issuing it would be that, though the proposed notification would make the action of the Mysore prison officials legal so long as the prisoner, who was being conducted to a court in British India, was within Mysore territory, their action would become illegal immediately he entered British territory, for their authority for conveying the prisoner to the court, being based on an order which was not authorised by British law, would thenceforth cease to have validity.

4. Having regard to these circumstances, the Government of India are of opinion that the difficulty can best be met by omitting from the proposed notification all reference either to the Prisoners' Act, 1900 (III of 1900), or the Mysore Prisoners' Testimony Regulation, 1894, for these enactments obviously only refer to cases where the court and the prison from which the person is to be brought are both in British India or both in Mysore, as the case may be

5. I am, therefore, to forward a revised draft notification which embodies all that is proposed by the Mysore Durbar, and at the same time avoids the legal difficulty underlying the Durbar's suggestions.

The scheme on which this revised draft is based is as follows:—When a court in British India desires to secure the attendance of a person in a Mysore prison, who is charged with an extraditable offence, a requisition will be sent by such court to the Officer in charge of the Prison requesting him to deliver the person to a police officer who will be furnished with a warrant justifying the prisoner's arrest as soon as he crosses the frontier of British India. The Mysore Notification will legalise the action of the Mysore prison officials in complying with the requisition in Mysore territory, while the warrant will legalise the custody of the person from the moment he crosses the frontier and will justify his conveyance to the court by which it was issued. The requisition to the Mysore prison officials requires no statutory sanction for its issue, while its execution, being confined to Mysore territory, need not be provided for by British law. The person will be lawfully conveyed in virtue of the Mysore Notification from the prison to the frontier of British India, and, in virtue of the British warrant, from the frontier to the court where he is to be tried.

6. The re-conveyance of the convict from British India to Mysore amounts in fact to his extradition and, in order to legalise such a step, a warrant should be issued in each case under Section 7 of the Extradition Act, 1903, by the Resident to the District Magistrate concerned for execution as soon as the trial of the prisoner in British India is over. The usual application for the issue of such an extradition warrant should be made by the Durbar simultaneously with the delivery of the prisoner to the custody of the British Police Officer as indicated in paragraph 5 *supra*.

7. A person who is surrendered for trial in British India, while undergoing imprisonment in Mysore on conviction for an offence which is not extraditable, could not be returned to Mysore under a warrant issued by the Resident under Section 7 of the Indian Extradition Act, 1903, Act. XV of 1903. In such cases, however, action could, if the Durbar thought fit, be taken under Section 9 of Act XV of 1903 to procure the surrender of the convict for the completion of the unexpired portion of his sentence.

8. If the revised draft notification, the terms of which have been approved by the Government of India, meets with the acceptance of the Durbar, I am to request that it may be duly issued, and that six copies of the same may be supplied to this office.

Draft Notification.

His Highness the Maharaja of Mysore is pleased to direct that, if a requisition for the production and delivery at a place and to a person or authority indicated in the requisition, of a person confined in a prison in Mysore and charged with the commission of an extradition offence in British India, be addressed by a Magistrate or Court of competent jurisdiction in British India to the Officer in charge of the Prison in Mysore where such person is confined, such officer shall act upon and comply with the same by causing such person to be conveyed to the place and delivered to the person or authority so indicated: provided as follows:—

(1). Every such requisition shall be forwarded through the Hon'ble the Resident in Mysore.

(2). No such requisition shall be acted upon if the person to whom it relates is under sentence of death.

Explanation.—In this order "extradition offence" means any such offence as is described in the First Schedule to the Indian Extradition Act 1903, (Act XV of 1903 of the Governor-General in Council).

To the First Assistant to the Hon'ble the Resident in Mysore, Pol. No. 285, dated 15th October 1905.

Serial No. 6.

I am directed to acknowledge the receipt of your letter No. 4848, dated the 29th August 1905, in regard to the arrangements proposed for the extradition to British India of persons confined in Mysore prisons and for their re-surrender to the Mysore State.

2. In reply, I am directed to state that, to the terms of the revised draft of the notification proposed, or to the omission therefrom of the references to the Prisoners' Act, 1900, and the Mysore Prisoners' Testimony Regulation, 1894, the Durbar have no objection. At the same time, in order to provide for the sentences passed on convicts being under suspension during the period of their surrender, the Durbar propose to make the following addition to the notification, on the lines of sub-section (2) of Section 11 of Act XV of 1903:—

"(2). His Highness is further pleased to direct that, on the delivery as aforesaid of a person confined in prison and undergoing sentence under conviction in Mysore, his sentence shall be deemed to be suspended until the date of his re-surrender from British India to Mysore, when it shall revive and shall have effect for the portion thereof which was unexpired at the time of his deliver

Surrender to the British authorities of convicts undergoing imprisonment in Mysore Jails.

3. Passing, however, from the notification to be issued by His Highness the Maharaja to the other portion of the mutual agreement under discussion, I am directed to represent that the procedure suggested for the re-conveyance to Mysore of prisioners delivered up to British India Courts, places the Mysore Government in a position of dicided disadvantage, and seems to require reconsideration.

If a reference be kindly made to the last sentence of para 1 of my letter Pol. No. 467, dated the 2nd December 1904, it will be seen that the Durbar have been under the impression that "the warrant of the Hon'ble the Resident for securing the return of the convict to Mysore would be issued in all cases as a matter of course, and that any special initiative action on the part of the Durbar would not be required." There is no reference to this point in your letter under reply, which, on the contrary, makes a distinction as to persons convicted of extradition and non-extradition offences, the effect of which is, not only to entail on the Durbar the trouble and initiative of procuring the convict's re-surrender in the former class of cases, but also to render highly involved and inconvenient, if not impracticable, his re-surrender in the latter.

4. To take first the case of persons who have been undergoing imprisonment in Mysore for extradition offences. The arrangement here is that the convict delivered up should in all cases be re-surrendered to Mysore on the conclusion of his trial in British India. This being so, and seeing that the Durbar can have no other additional information to give regarding the prisoner than what is contained in the British Indian court's requisition, which necessarily passes through the office of the Hon'ble the Resident, it is not clear why the issue of a warrant for the convict's re-conveyance should be made dependent on the Durbar furnishing an application for his extraditio

5. In the case of persons convicted of non-extradition offences, it is suggested in the letter under reply that the provisions of Section 9 (which refers also to Section 3) of Act XV of 1903 may be adopted, if the Durbar think fit. These provisions, I am to submit, are extremely complicated and involve considerable delay, and a good deal of uncertainty as to the ultimate result; and moreover, since 'offence' is defined in the enactment just alluded to as an act which would, if committed in British India, constitute an offence, it follows that persons convicted under Mysore laws for which there is no counterpart in British Indian Legislation, such as the Mines Regulation, the Game Regulation and the Infant Marriages Regulation, cannot be procured back at all. The Procedure suggested is, therefore, both inconvenient and unsatisfactory; and there is, it seems to the Durbar, the less reason for insisting on it in that, in the cases under consideration, the accused's guilt has ex-hypothesi been already fully established before a competent court in the Mysore Stat

6. In the above circumstances, the Durbar suggest that, under Section 12 of Act XV of 1903, the following modifications may be considered necessary and sanctioned :—

(i) The obligation of making an application for the surrender of a prisoner be dispensed with.

(ii) The procedure with reference to the surrender of such prisoner be made identical in the case of both extradition and non-extradition offences.

The Durbar believe that the modifications are permissible under Section 12 which authorizes all "necessary modifications" of the provisions of the Extradition Act and they are certain that nothing else can conduce towards simplicity of procedure. But the proposed modification would meet only a bulk of the cases likely to occur, since there may arise cases in which an act that is an offence in Mysore is not an offence in British India. Such instances may be taken out of the new arrangement by the addition to proviso (2) of the notification of the words "or under sentence for an act which, if committed in British India, would not be an offence."

Letter No. 2296, dated Bangalore, 11th April 1906, from R. C. H. Moss King, Esq., I. C. S., First Assistant to the Resident in Mysore, to the Dewan of Mysore.

I am directed to invite a reference to the correspondence ending with Mr. Venkata Varada Iyengar's letter Pol. No. 285, dated the 15th October 1905, regarding the procedure to be observed in cases of extradition from Mysore to British India of persons convicted and confined in Mysore prisons and of their re-surrender to the State. Serial No.

2. I am to say that the views of the Government of His Highness the Maharaja, as expressed in the above letter were placed before the Government of India, who in reply have stated that there is no objection to the addition proposed by the Durbar to the draft notification, referred to in paragraph 2 of the said letter. The Government of India also see no objection to the addition to proviso (2) of the notification of the words "or under sentence for an act which, if committed in British India, would not be an offence," as proposed in the concluding portion of the Durbar's letter under reference.

3. With regard to the modifications suggested by the Durbar in paragraph 6 of their letter, the Government of India state that such modifications would not be "necessary modifications" within the meaning of Section 12 of the Indian Extradion Act, XV of 1903, and cannot therefore be effected in the manner proposed. They are, however, of opinion that the first modification, *viz.*, that the obligation on the part of the Durbar to make an application for the surrender of their prisoners extradited to British India be dispensed with, might be given effect to, so far as extradition offences are concerned, by amending the rules made by the Governor-General in Council under Section 22 of the Act (*vide* Foreign Department Notification No. 1862, Indian Act, dated the 13th May 1904). They also state that there appears to be no reason why the amendment should not be limited to convicted persons, such as are referred to in Section 12 of the Act, rule 2 of the aforesaid rules being left unaltered so far as other persons are concerned.

Copy enclosed for reference and kind return.

4. Such amendment, however, it appears to the Resident would leave untouched the difficulty which the procedure suggested in paragraph 6 of my letter of 29th August 1905 was intended to meet.

It must be borne in mind that the re-surrender of the Durbar's prisoner by the British Court can be obtained only by the Resident's issuing a warrant under Section 7 of Act XV of 1903, and the question is how the Resident is to be made aware that the issue of such a warrant is necessary, seeing that under the scheme proposed, the Durbar would make over the prisoner to the British Court direct without the intervention of the Residency.

The only parties in a position to move the Resident to issue his warrant are the Durbar and the British Court to which the prisoner has been surrendered. By a further amendment of the rules, it might, doubtless, be made incumbent upon the latter to intimate to the Resident when the prisoner's presence before such court is no longer required, but to throw this duty upon the British Court would involve no simplification of the procedure, and might cause some delay in the re-surrender of the prisoner to the State.

On the whole, therefore, it would appear expedient to follow the procedure prescribed by the Act, and require the Durbar to move the Resident to issue his warrant simultaneously with their surrender of the prisoner to the authorities in British India. I am to ask whether the Durbar have any remarks to make on this point.

5. As regards the other modification suggested by the Durbar to secure uniformity of procedure in the re-surrender of convicted persons in the case of both extradition and non-extradition offences, the Government of India state that it does not seem to be possible to give effect to it without an amendment of the Act for which they say no substantial reasons have been advanced.

6. The Government of India further say that it has been suggested that some circumlocution might be avoided if the Durbar were to make a general requisition under Section 9 for the extadition of all convicted prisoners who had not served their sentences instead of a perticular requisition in each case. Any such general requisition, however, would apparently have to be made to the Resident under the proviso to Section 9 of the Act and in that case the same difficulty would arise as has been pointed out in paragraph 4 of this letter, namely, that the Resident will not be in a position to issue the extradition warrants from time to time required. The Resident would be glad to have the Durbar's views in this matter also.

Pol. No. 965, dated 31st May 1906, to the First Assistant to the Hon'ble the Resident in Mysore.

I am directed to acknowledge the receipt of your letter No. 2296, dated the 11th April 1906, in regard to the extradition of Mysore convicts to British India and their re-surrender to the State after trial. Serial No. 8

2. On a consideration of the grounds set forth in para 4 of the letter under reply, the Durbar waive their objections to, and are prepared to accept, the course therein suggested, in regard to the re-surrender of persons convicted in Mysore of extradition offences; namely, that simultaneously with the surrender of any such person to the authorities in British India, the Durbar should make an application to the Hon'ble the Resident for the issue of an extradition warrant for his re-surrender. The application, it is persumed, will be purely formal, and not involve more than an expression of the Durbar's desire for the re-surrender of the convict.

3. As regards persons convicted of non-extradition offences, the Durbar regret that their main objection to proceeding under Section 9 of the Extradition Act, XV of 1903, in order to secure the re-surrender of their prisoners, still remains undisposed of

Surrender to the British authorities of convicts undergoing imprisonment in Mysore Jails :

The objections urged in para 5 of my letter of the 15th October 1905, Pol. No. 285, were in all three :—

(i) That the procedure required to be adopted is extremely complicated and entails considerable delay.

(ii) That it involves a good deal of uncertainty as to the ultimate result.

(iii) That, in the case of acts which are not offences in British India, the convicts cannot be procured back at all.

The last of these objections has, it is understood, been accepted by the Government of India, and the cases referred to therein taken out of the contemplated arrangement.

4. As regards the first objection, it appears from para 6 of your letter that the Government of India suggest that it might be met to some extent by the Durbar making a general requisition for extradition, under Section 9 of the Act, instead of a particular requisition in each case. This, if feasible, would, no doubt, avoid some degree of circumlocution, as far as the Durbar are concerned. But it is observed in your letter that a general requisition by the Durbar will not enable the Hon'ble the Resident to issue extradition warrants from time to time as required. I am, however, to point out that the proviso to Section 9 refers only to one act of requisition, *viz.*, that made by the State through the Political Agent, or, which comes to the same thing, by the Political Agent on behalf of the State. It does not appear why, if a general requisition by the Durbar would be sufficient for the purpose of Section 9, the issue of a separate extradition warrant in each case should be considered necessary on the part of the Hon'ble the Resident.

5. However this may be, the suggestion in regard to a general requisition does not I am to submit, meet the real difficulty which the Durbar feel in the matter, *viz.*, the uncertainty as to whether, after all the delay and formalities that have to be undergone, there is any assurance of being able to procure the re-surrender of the convict. For, in the first place, when a requisition is made through the Political Agent to a Local Government in British India, the latter is not bound to issue an order for enquiry to a Magistrate, *unless it thinks fit.* The Magistrate, again, goes through a quasi-judicial enquiry in order to satisfy himself that there is a *prima facie* case in support of the requisition, and unless so satisfied may refuse to keep the criminal in custody. Further sources of uncertainty lie in the facts that the requisition has to pass through the Local Government (for the second time) and the High Court (if an important question of law is deemed to be raised) and be upheld by them, and that delay on the part of the Local Government in issuing a warrant for re-surrender or in causing it to be executed renders the criminal liable to be discharged. The Durbar would respectfully venture to ask if such a result is considered by the Government of India to be desirable in a case in which the fact of the prisoner's guilt has already been tried and found affirmatively by a competent court in the Mysore State and whether his surrender to British India in order to further the ends of justice there need entail the possibility of justice being defeated in the Mysore State. So long as an assurance cannot be given by the Local Government desiring surreder of a Mysore convict that his re-surrender will be effected in due cours, after his trial in British India is over, it appears to the Durbar inexpedient to require the surrender of the convict before he has served out his full time in the Mysore prisons. The inconvenience to the Local Government in the one case would be merely that due to a postponement of his trial; whereas, in the other, there would be caused to the Durbar not only much delay and circumlocution, but also the possiablity of the criminal himself escaping the punishment awarded to him on conviction.

6. Rather than that such an undesirable result should become possible, the Durbar would prefer that cases of the kind in question, namely those in which the person whose surrender is required has been convicted in Mysore of a non-extradition offence, should be taken out of the arrangement, in the same way as cases in which a person has been convicted of an act which is not an offence at all in British India have been. In fact, I am to submit there is even greater reason why the exception should be made in the former case than in the latter.

Letter No. 5763, dated Bangalore, 10th October 1906, from P. L. Moore, Esq., I. C. S., Officiating First Assistant to the Resident in Mysore, to the Dewan of Mysore.

I am directed to refer to the correspondence ending with Mr. Chandrasekhara Aiyar's letter Pol. No. 965, dated the 31st May 1906, regarding the extradition from Mysore to British India of persons convicted and confined in Mysore prisons Serial No 9

2 With reference to paragraph 4 of the letter, I am to observe that the suggestion in paragraph 6 of Mr. Moss King's letter No. 2296, dated the 11th April 1906, that a general requisition might be made under Section 9 of the Indian Extradition Act, 1903 (XV of 1903) for the extradition of all convicted persons who have not served their sentences, was put forward solely with a view to the convenience of the Mysore Durbar; and, if it is not acceptable to them, the suggestion need not be adopted.

3. As regards paragraph 5 of the Durbar's letter, the Government of India admit that the procedure prescribed by Section 9 of the Act, read with Section 3, is unsuitable for the case of convicted persons whose re-surrender to the Native State should be a matter of course, but they fail to see why, except in case in which the prisoner has been convicted in Mysore for a crime which would not be an offence under the law in British India, the result of the procedure prescribed in Section 3 should not lead invariably to the re-surrender of the poisoner, the details of the procedure in these cases being in practice little more than a formality. The Durbur would have to forward a duly certified document stating the fact of conviction with reference to Section 17 (2) (c) of the Act, and this would be sufficient for action by the British Magistrate under Section 3 (3).

4. If on consideration of these remarks, the Durbar still has doubts about the practicability of the procedure suggested, the only alternative is to allow the Mysore Durbar the option of declining to surrender for trial in British India a prisoner who is undergoing imprisonment in the State for a non-extradition offence. If the Durbar were to withhold surrender, it would of course be only until the expiration of the sentence, which apparently would not be a long one, the offence not being a sufficiently serious one to be an extradition offence. The effect of such a refusal would thus be only a postponement of the trial of a prisoner for the offence committed in British India; and, in the majority of such cases, the possibility of a failure of justice would not be great. The course to be followed in any particular instance would doubtless be decided after consultation between the Resident and the Durbar, due regard being had to the heinousness of the offence for which the convict was required to stand his trial in British India, and the length of the unexpired portion of the sentence which he was undergoing in Mysore.

5. In conclusion, I am to say that the Resident would be glad to be informed of the course which the Durbar would perfer to adopt in this matter.

Letter No. Pol. 674, dated 6th February 1907, to the First Assistant to the Hon'ble the Resident in Mrsore.

I am directed to reply to Mr. Moore's letter No. 5763, dated the 10th October 1906, regarding the extradition from Mysore to British India of persons convicted and confined Mysore prisons. Serial No. 10

2. For reasons already explained in paras 4 and 5 of my letter Pol. No. 965, dated the 31st May 1906, reasons which it is understood are admitted by the Government of India to have force—the Durbar continue to be of the opinion that the case of prisoners under sentence for non-extradition offences should be altogether excluded from the scope of the proposed notification. To leave each particular instance to be dealt with, as suggested in the last sentence of para 4 of your office letter, seems to them to entail unnecessary trouble and inconvenience. Such cases must after all be few and far between, and as observed in para 4 of your office letter, the inconvenience or possibility of a failure of justice resulting from the solution suggested by the Durbar must be purely nominal. The procedure in the case of non-extradition offences would be merely that the Magistrate having jurisdiction in British India would issue a warrant to the Magistrate in Mysore within whose jurisdiction the prisoner is under going sentence, and the latter would as soon as the prisoner discharged execute the same under the authority of the Chief Commissioner's Notification No. 111, dated the 23rd July 1878.

3. I am to add, however, that should it be found possible later on to so amend Sections 9 and 3 of Act XV of 1903 as to provide a more certain and less circuitious and inconvenient procedure for the re-surrender of persons sentenced by the courts of the surrendering state for non-extradition offences (and, it may be added, also for acts which are not offences in British India), there would be no reason why the question of revising the present arrangement may not be reconsidered, so as to bring these cases also within the operation of the arrangement.

4. I am now to forward, for favor of the approval of the Government of India being obtained, a revised draft of a notification which the Durbar propose to issue in the matter.

Draft Notification.

His Highness the Maharaja of Mysore is pleased to direct that, if a requisition for the production and delivery at a place and to a person or authority indicated in the requisition, of a person confined in a prison in Mysore under sentence of a Criminal Court in Mysore for an extradition offence, and charged with the commission of an extradition offence in British India, be addressed by a Magistrate or Court of competent jurisdiction in British India to the officer in charge of the prison in Mysore where such person

is confined, such officer shall act upon and comply with the same by causing such person to be conveyed to the place and delivered to the person or authority so indicated: Provided as follows:—

(1) Every such requisition is forwarded through the Hon'ble the Resident in Mysore.

(2) No such requisition shall be acted upon if the person to whom it relates is under sentence of death.

Explanation.—In this order "extradition offence," means any such offence as is described in the First Schedule to the Indian Extradition Act, 1903 (Act XV of 1903 of the Governor-General in Council).

2. His Highness is further pleased to direct that, on the delivery as aforesaid of a person confined in a prison and undergoing sentence under a conviction in Mysore, his sentence shall be deemed to be suspended until the date of his re-surrender from British India to Mysore, when it shall revive and shall have effect for the portion thereof which was unexpired at the time of his delivery.

Letter No. 2071, dated the 5th March 1907 from F. P. Rennie Eqr., I. C. S., First Assistant to the Resident in Mysore to the Dewan of Mysore.

I am directed to acknowledge the receipt of Mr. Chandrasekhara Aiyar's letter No. Pol. 674, dated 6th February 1907, regarding the extradition from Mysore to British India of prisoners convicted and confined in Mysore prisons. Serial No. 11.

2. With reference to paragraph 2 thereof, I am to point out that the language used in paragraph 4 of Mr. Moore's letter No. 5763, dated 10th October 1906, in respect of the surrender of prisoners convicted of non-extradition offences was not so unqualified as the Durbar now represent it to be, and that although cases of failure of justice through delay in surrender might be rare, instances might occur where the gravity of the offence committed in British India and the possible risk of witnesses either forgetting the details of the occurrence or of interested persons tampering with them by the time the accused completed his sentence in the Mysore State, might render a speedy surrender necessary. For example, a person convicted in the Mysore State of a non-extradition offence under any of the sections of the Indian Penal Code noted in the margin might quite possibly be detained in a Mysore Jail for many months or even years, and the postponement, until his release therefrom, of the trial for a graver offence committed in British India might not improbably cause a miscarriage of justice.

Section, 194, 195, 201, 213, 216, 219, 220, 222 or 225 Indian Penal Code.

3. With a view to meet such a contingency and at the same time to avoid the correspondence and inconvenience which might ensue from the proposed consultation between the Durbar and the Resident in each case, I am to suggest the adoption of the following procedure:—

If, on the receipt of a process issued by a British court under the authority of the Chief Commissioner's Notification, No. 111, dated 23rd July 1878, the Magistrate in Mysore finds that the accused person is undergoing a sentence of imprisonment in a Mysore Jail for a non-extradition offence, he should immediately communicate this fact to the British court concerned together with information as to the date when the accused will be released in the ordinary course. If on the receipt of this information the court considers that the immediate trial of the accused in British India is necessary in the interests of justice, it should, through the District Magistrate, move the Residency in the matter. The Resident will then take such action as may be necessary in consultation with the Durbar.

4. If the Durbar agree to the adoption of this course a clause may be added to the draft notification proposed in the letter under reply to the following effect:—

"The provisions of this notification may, by a special order of the Government be applied to the case of any person, confined in a prison in Mysore under sentence of a criminal court in Mysore for any offence, who may be subsequently charged with committing an extradition offence in British India."

5. In conclusion, I am to say, the Resident trusts that the Durbar will be able to accept the course proposed in order to bring their procedure into conformity with the minimum requirements of the Government of India in this respect.

Letter No. Pol. 972, dated 6th May 1907, to the First Assistant to the Hon'ble the Resident in Mysore.

I am directed to acknowledge the receipt of your letter No. 2071, dated the 5th March 1907, regarding the extradition of Mysore convicts to British India and their re surrender to the State after trial. Serial No. 12

2. With reference to para 5 of your letter, I am directed to state that the Durbar agree to the procedure suggested in para 3 regarding the re-surrender of convicts imprisoned in, Mysore for non-extradition offences, as it saves inconvenience and correspondence in each case, and involves consultation between the Durbar and the Resident only in those cases where the British Magistrate thinks that, in the interests of justice, the Mysore convict should be immediately tried. The Durbar also agree to the addition of the clause proposed in para 4 of your letter on the understanding that the word "offence" where it first occurs means a non-extradition offence, and does not also include an act which, if committed in British India, would not be an offence. The Government of India have already agreed on the representation of the Durbar to exclude the cases of persons confined in Mysore for such acts from the scope of the present arrangement. - (*Vide* the concluding portion of the Durbar's letter Pol. No. 258, dated 15th October 1905, and para 2 of Mr. Moss King's letter No. 2296, dated the 11th April 1906.) The word "offence" though defined in the Indian Extradition Act is not defined in the order proposed to be issued by the Durbar; and the words "for any offence" in the clause proposed to be newly added do not therefore indicate with sufficient clearness that the cases, referred to above, are excluded from the present arrangement. In order to remove this uncertainty, I am directed to suggest for the approval of the Hon'ble the Resident that the following explanation be added to the new clause:—

The word "offence" where it first occurs in this para does not include an act which if committed in British India, would not be an offence.

3. The draft notification as revised will accordingly run as in the enclosed draft.

Draft Notification.

1. His Highness the Maharaja of Mysore is pleased to direct that, if a requisition for the production and delivery at a place and to a person or authority indicated in the requisition of a person confined in a prison in Mysore under sentence of a Criminal Court in Mysore for an extradition offence, and charged with the commission of an extradition offence in British India, be addressed by a Magistrate or court of competent jurisdiction in British India to the officer in charge of the prison in Mysore where such person is confined, such officer shall act upon and comply with the same by causing such person to be conveyed to the place and delivered to the person or authority so indicated, provided as follows:—

(1) Every such requisition is forwarded through the Hon'ble the Resident in Mysore.

(2) No such requisition shall be acted upon if the person to whom it relates is under sentence of death.

Explanation.—In this order, "extradition offence" means any such offence as is described in the First Schedule to the Indian Extradition Act, 1903 (Act XV of 1903 of the Governor-General in Council).

2. His Highness is further pleased to direct that on the delivery, as aforesaid, of a person, confined in a prison and undergoing sentence under a conviction in Mysore, his sentence shall be deemed to be suspended until the date of his re-surrender from British India to Mysore, when it shall revive and shall have effect for the portion thereof which remained unexpired at the time of his delivery.

3. The provisions of this notification may by a special order of the Government be applied to the case of any person confined in a prison in Mysore under sentence of a criminal court in Mysore for any offence, who may be subsequently charged with committing an extradition offence in British India.

Explanation.—The word "offence" where it first occurs in this para does not include an act which, if committed in British India, would not be an offence.

Camp No. 21, dated, Mysore, 28th June 1907, from F. P. Rennie, Esq., I. C. S., First Assistant to the Resident in Mysore, to the Dewan of Mysore.

I am directed to acknowledge the receipt of Mr. Chandrasekhara Aiyar's letter No. 972, dated the 6th May 1907, regarding the procedure to be observed for the extradition from Mysore to British India of persons convicted and confined in Mysore Prisons. **Serial No. 13**

2. In reply, I am to convey the approval of the Government of India to the notification forwarded with the letter cited above and to say that there is no objection to its being promulgated as the law of the State.

3. The necessary instructions on the subject are being issued to Local Governments and Administrations in British India.

Surrender to the British authorities of convicts undergoing imprisonment in Mysore Jails

4 I am to request that thirty printed copies of the notification may when published, be furnished to the Residency

NOTIFICATION

No. J. 219—Legis. 14-04-14, dated Bangalore, 20th July 1907

1. His Highness the Maharaja of Mysore is pleased to direct that, if a requisition for the production and delivery at a place and to a person or authority indicated in the requisition of person confined in a prison in Mysore under sentence of a criminal court in Mysore for an extradition offence, and charged with the commission of an extradition offence in British India, be addressed by a Magistrate or court of competent jurisdiction in British India to the officer in charge of the prison in Mysore where such person is confined, such officer shall act upon and comply with the same by causing such person to be conveyed to the place and delivered to the person or authority so indicated. Serial No. 14

Provided as follows:—

Every such requisition is forwarded through the Hon'ble the Resident in Mysore

No such requisition shall be acted upon if the person to whom it relates is under sentence of death

Explanation.—In this order, "extradition offence" means any such offence as is described in the first schedule to the Indian Extradition Act, 1903 (Act XV of 1903 of the Governor-General in Council)

2. His Highness is further pleased to direct that on the delivery as aforesaid of a person confined in a prison and undergoing sentence under a conviction in Mysore, his sentence shall be deemed to be suspended until the date of his re-surrender from British India to Mysore, when it shall revive and shall have effect for the portion thereof which remained unexpired at the time of his delivery.

The provisions of this notification may, by a spacial order of the Government be applied to the case of any person confined in a prison in Mysore under sentence of a criminal court in Mysore for any offence, who may be subsequently charged with committing an extradition offence in British Iddia.

Explanation.—The word "offence," where it first occurs in this para, does not include an act which, if committed in British India, would not be an offence.

By Order,

S. BALASUNDARAM IYER,

Offg. Secy. to Govt. Gen. & Rev. Depts.

Letter, Pol. No. 179, dated the 21st August 1907, to the First Assistant to the Hon'ble the Resident in Mysore, Bangalore.

I am directed to acknowledge with thanks the receipt of your letter Camp No 21, dated the 28th June 1907, conveying the sanction of the Government of India to the Notification proposed to be issued by the Durbar regarding the procedure to be observed for the extradition from Mysore to British India of persons convicted and confined in Mysore prisons and, as desired in para 4 thereof, to forward herewith 30 copies of the Notification as published by them. Serial No. 14 (a)

Proceedings of the Government of His Highness the Maharaja of Mysore.

READ

(1) Chief Commissioner's Notification No. 111, dated the 23rd July 1878:—

Under the authority of His Excellency the Viceroy and Governor-General in Council the Chief Commissioner directs that all criminal processes of whatsoever description when issued by any Magistrate having jurisdication in any District of British India shall be acted upon and executed by all Magistrates and Police officers in Mysore under the same condition and in the same manner, as if such processes had been issued by a Magistrate having jurisdiction in Mysore

(2) Government Notification No. J. 219—Legis. 14-04-14, dated the 20th July 1907

"His Highness the Maharaja of Mysore is pleased to direct that, if a requisition for the production and delivery at a place and to a person or authority indicated in the requisition of a person confined in a prison in Mysore under sentence of a criminal court in Mysore for an extradition offence, and charged with the commission of an extradition offence in British India, be addressed by a Magistrate or court of competent jurisdiction in British India to the officer in charge of the prison in Mysore where such person is confined, such officer shall act upon and

comply with the same by causing such person to be conveyed to the place and delivered to the person or authority so indicated.

Provided as follows :—

(1) Every such requisition is forwarded through the Hon'ble the Resident in Mysore.

(2) No such requisition shall be acted upon if the person to whom it relates is under sentence of death.

Explanation.—In this order,' extradition offence' means any such offence as is described in the 1st Schedule to the Indian Extradition Act, 1903 (Act XV of 1903 of the Governor-General in Council).

2. His Highness is further pleased to direct that on the delivery as aforesaid of a person confined in a prison and undergoing sentence under a conviction in Mysore, his sentence shall be deemed to be suspended until the date of his re-surrender from British India to Mysore when it shall revive and shall have effect for the portion thereof which remained unexpired at the time of his delivery.

3. The provisions of this notification may, by a special order of the Government, be applied to the case of any person confined in a prison in Mysore under sentence of a criminal court in Mysore for any offence, who may be subsequently charged with committing an extradition offence in British India.

Explanation.—The word ' offence ' where it first occurs in this para, does not include an act which, if committed in British India, would not be an offence."

No. J. 2013-23 – Legis. 14-04-15, dated Bangalore, 6th January 1908.

Order thereon.—Government are pleased to lay down the following instructions for the guidance of Magistrates and officers in charge of prisons in the State with regard to warrants and requisitions issued by Magistrates in British India in accordance with the Notifications read above:— Serial No. 15

(1) Where a person is confined in a prison in Mysore under sentence of a criminal court in Mysore for an *extradition offence* and is charged with the commisison of an *extradition offence* in British India, a requisition to the officer in charge of the prison where such person is confined, shall be acted upon and complied with in the manner provided in para 1 of the Notification of the 20th July 1907 read above.

(2) Where a person is confined in a prison in Mysore for a *non-extradition offence* (*i. e.*, an offence not specified in the Schedule to the Indian Extradition Act of 1903) and is charged with an *extradition offence* in British India, a requisition by a Magistrate or Court of competent jurisdiction in British India, to the officer in charge of the prison where such person is confined, shall not be complied with except on a special order of the Government. On receipt of any such requisition, the officer in charge of the jail should immediately report the case to Government for instructions.

(3) In either of the above cases, no person confined in Mysore under a sentence of death shall be surrendered.

(4) Whenever a person confined in a prison in Mysore is surrendered before the expiry of his term of imprisonment, the officer in charge of the prison shall, simultaneously with the surrender of the prisoner, submit an application for the issue of a warrant under Section 7 or a requisition under Section 9 of the Indian Extradition Act, for the resurrender of the convict to undergo the unexpired portion of his sentence.

(5) Where a person is confined in Mysore under sentence for an offence constituted by an act which, if committed in British India, would not be an offence, or under any of the provisions of the Criminal Procedure Code, or is charged with the commission of a non-extradition offence in British India, he shall not be surrendered till the expiry of his term of imprisonment.

(6) If on the receipt of a process issued by a British court under the authority of the Chief Commissioner's Notification of 23rd July 1878, a Magistrate in Mysore, or an officer in charge of a jail, finds that the accused person is undergoing sentence

Surrender to the British authorities of convicts undergoing imprisonment in Mysore Jails.

or imprisonment in the State for a non-extradition offence, he shall immediately communicate the fact to the British Court concerned together with information as to the date when the accused will be released in the ordinary course.

Where the immediate surrender of the prisoner is not directed by Government as indicated in para 2 of this Order, the Magistrate in Mysore, within whose jurisdiction the prisoner is undergoing sentence, shall execute the warrant in accordance with the Chief Commissioner's Notification of 23rd July 1878, as soon as the prisoner is discharged.

The offences specified in the 1st Schedule to the Indian Extradition Act, XV of 1903 are reprinted in the Appendix for convenience of reference.

C. S. BALASUNDARAM IYER,
Offg. Secy. to Govt., Gen. & Rev. Depts

The District Magistrates in Mysore, for information and communication to all subordinate Magistrates.

The Registrar of the Chief Court of Mysore

The Inspector-General of Prisons in Mysore, for information and communication to all prison officers.

The Inspector-General of Police in Mysore.

APPENDIX

Extradition offences. (Schedule I to the Indian Extradition Act, XV of 1903).
The sections referred to are the section of the Indian Penal Code.

Frauds upon creditors (Section 206)
Resistance to arrest (Section 224)
Offences relating to coin and stamps (Sections 230 to 263 A).
Culpable homicide (Sections 299 to 304)
Attempts to murder (Section 307)
Thuggee (Sections 310, 311).
Causing miscarriage and abandonment of child (Sections 312 to 317).
Causing hurt (Sections 323 to 333).
Wrongful confinement (Sections 347, 348).
Kidnapping and slavery (Sections 360 to 373).
Rape and unnatural offences (Sections 375 to 377)
Theft extortion, robbery, ect. (Sections 378 to 414).
Cheating (Sections 415 to 420)
Fraudulent deeds, etc. (Sections 421 to 424).
Mischief (Sections 425 to 440).
Lurking house-trespass (Sections 443, 446).
Forgery using forged documents, etc. (Sections 463 to 477 A).
Desertion from any body of Imperial Service Troops.
Piracy by law of nations.
Sinking or destroying a vessel at sea or attempting or [illegible] so
Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm
Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.
Any offence against any section of the Indian Penal Code or against any other law which may from time to time be specified by the Governor-General in Council by notification in the *Gazette of India* either generally for all States or specially for any one or more States.